The Issues
The issues surrounding state licensure can be categorized as internal and external. AOTA recognized the internal issues in the mid-70s when the Representative Assembly voted to develop a national strategy for the adoption of licensure. The issues that prompted this vote were: the increasing number of unqualified persons calling themselves occupational therapists, persons attempting to provide occupational therapy services, and the lack of a legal definition of occupational therapy. The lack of a practice definition and standards for qualified providers in state law has generated different standards for occupational therapy within a state as well as unresolved problems in what constitutes a reimbursable occupational therapy service. Although some federal regulations such as Medicare define the qualified occupational therapist, these standards vary from setting to setting and have been lower than those of the AOTA. As our profession and reimbursement for our services grow, these problems compound and they are as much the problems of the '80s as they were the '70s.

Conversely, the major external issue surrounding state licensure has just emerged. Since 1981 there has been an effort to return decision-making power to the states including the administration of health and education programs. This can only mean that the decisions relative to who is qualified to provide a service will increasingly rest with the state legislatures and agencies. Since our licensure efforts began, 14 states and the District of Columbia have occupational therapy practice acts. During this time new internal issues relative to the wording of licensure bills have surfaced. These issues include physician referral, career mobility, and specific wording of the occupational therapy definition.

Four out of 15 jurisdictions licensing occupational therapists have some type of physician referral language. In most cases these laws included physician referral to ensure the support of the state medical board and the medical community. Some state associations have wrestled with the question of including career mobility in the bill. Currently, four states with licensure laws have no career mobility provision, and, although Connecticut has a provision, it requires a baccalaureate degree (not necessarily in occupational therapy) to obtain a therapist level license.

The wording of a licensure definition is crucial. The definition must attempt to cover the scope of practice in general terms, but must include specific terms inherently belonging to occupational therapy. The Representative Assembly adopted a second licensure definition guide for states to use in 1981. This new definition was written by a task force of occupational therapists currently serving on occupational therapy licensure boards. Changes were made in the guideline definition to include words commonly associated with occupational therapy. The major additions to the definition were: “sensory integrative functioning . . . exercises . . . administering and interpreting tests such as manual muscle and range of motion, . . .”
Characters Involved
State licensure involves at least five distinct groups of people: consumers, state legislators, occupational therapists, other health professionals, and the health care industry.

A licensure law protects consumers from unqualified occupational therapists attempting to provide occupational therapy services. We believe the consumer is not in a position to evaluate the qualifications of an occupational therapist. Most consumers are not familiar with occupational therapy until they have an acute need for our services. Consumers who have received services from a qualified provider are our greatest advocates and often assume we are already licensed and, if not, should be.

Many state legislators, on the other hand, believe professional groups should only be licensed where documented harm in their state occurred because of unqualified practitioners. In most states where occupational therapy licensure laws have been passed, the legislators were convinced that potential harm by unqualified occupational therapists was a real threat. Along with potential harm, a strong case was built in many states that, although an unqualified therapist may not harm a patient, they may not identify treatment needs and thus neglect aspects of treatment necessary for the patient's condition. This negligence was also interpreted as a type of harm.

The climate in most state legislatures is against further regulation of any professional group. The growing bureaucratic system is viewed as overburdensome for the states. Legislators believe there is a need to carefully evaluate any new licensure proposals and remove the initial decision from the political arena. Therefore, many states have legislatively established committees or commissions to review new licensure proposals. Members of the commissions are usually not elected officials and thus cannot be politically pressured in the same manner as legislators. Legislation to set up this process is sometimes called “sunrise” legislation. In a number of states occupational therapists have or will, in the near future, present applications to such commissions.

State legislators have also developed “sunset” legislation that automatically terminates licensure laws unless cause is established to recommend further regulation of the profession. The Georgia, Maryland, Utah, South Carolina, and Florida occupational therapy licensure laws have undergone “sunset” review and all these laws have been continued. Thirty-six states have some type of “sunset” legislation.

Occupational therapists in a state play the most significant role in a licensure effort. It is of paramount importance that the occupational therapists in the state are united behind their licensure proposal and the volunteer effort needed for a successful licensure campaign. The emerging internal issues discussed earlier must be resolved. Compromises such as the addition of physician referral in the bill often have to be made in light of a state’s overwhelming vote to pursue licensure.

Other health professionals, both licensed and nonlicensed, are always concerned when a professional group seeks licensure. Both groups are concerned with how a new licensure law might invade what they view as their scope of practice. Licensed groups are concerned about provisions in an occupational therapy bill that may in the future be forced upon them such as licensing assistants and career mobility. In all cases communication links should be set up between the state occupational therapy association and other health professions to discuss the proposed legislation and gain their support for the bill. Physical therapists (licensed in all states) and recreational therapists (licensed in two states) have voiced the most concern about occupational therapy licensure proposals.

The health care industry, especially the state hospital and nursing home associations, carefully monitor all new licensure proposals of health care providers. They are generally against the licensing of additional health care providers. They argue that licensure increases costs that must be passed on to the consumer. AOTA surveys conducted indicate no appreciable differences between the cost of occupational therapy services in states that have licensure laws and states without licensure laws. These findings came as no surprise because occupational therapy licensure laws did not increase the requirements to be an occupational therapist. Even with this type of data, the health care industry remains against licensing occupational therapists because supporting our bills, they believe, would only open the flood gate for further groups requesting their support or at least their neutrality.

AOTA’s Position
AOTA had been neutral on the issue of state licensure for occupational therapists; however, since 1974 AOTA’s position has been to
support licensure efforts by the states. AOTA does this by providing licensure workshops to the states and some direct lobbying efforts such as testifying at state licensure hearings and writing letters to legislators as they review the occupational therapy bill. AOTA also provides ongoing assistance to states as their licensure campaign proceeds, especially in the area of problem resolution and strategy developing.

Future Considerations
A future consideration, as mentioned previously, is the shift of power from federal to state government. It is unclear how far this shift will proceed, but, relative to licensure, it bears careful monitoring. Together with a government shift, there is also a movement within both government and the private sector to deregulate the health care industry. Qualifications for health care providers may be totally at the discretion of the states. Regulations of the future may indicate in general terms what services should be provided, but leave to the institution or agency decisions on the qualifications of people providing the service.

As states and subsequently the private sector begin to feel the effects of budget cuts, the health care industry will seek less costly methods to provide services. One method is to decrease the qualifications needed to be a provider of a service. In addition, occupational therapists may also realize new reimbursement sources such as hospice care, comprehensive outpatient rehabilitation facilities, and private practice. These sources only expand the potential for unqualified practitioners.

Licensure guarantees entry-level competency of occupational therapists. Licensure, however, does not guarantee quality care or continuing competency. This reveals a final future consideration that concerns many state legislators and consumers. What mechanism is in place to enhance continuing competency? In many occupational therapy licensure laws a continuing education clause has been included. This allows boards in the future to require continuing education to renew a license. Continuing education is currently mandatory in New Hampshire and Iowa. We may see this trend increase in light of the demands for continued competency; however, we as a profession do not subscribe to the fact that attendance at workshops demonstrates competency.

Action For Members
The process of enacting an occupational therapy licensure law is a group endeavor that must include every member of the state association. The process consists of a series of interrelated tasks to be completed within an established time frame. The purpose of the tasks is to:

1. Build resources needed within the state association to effect change through the legislative system.
2. Develop the organization and communication network necessary to influence the legislature and the governor.

An individual may begin the process by talking with other colleagues about licensure-related issues. Initially, the members explore the following issues: state and national political issues, the presence of unqualified practitioners providing so-called occupational therapy services, the demand for occupational therapy services, and whether there is adequate protection for the public from unqualified practitioners. Raising these questions among therapists may serve to bring about the first formal step of a licensure campaign.

A vote must be taken by the group to determine whether a campaign to enact a licensure law would be favorable to all members of the state association. Once the decision is made, the campaign must be the highest priority of the state association and the members must be willing to work hard toward this goal. A discussion of factors influencing such a decision usually includes drafting the licensure bill, financial considerations, and member responsibilities.

An important task that should be completed early in the licensure campaign is drafting the licensure bill. The Government and Legal Affairs Division can be of assistance by providing a model occupational therapy licensure bill and reviewing the state association’s draft before it is in final form.

Since the wording of the bill will affect occupational therapy practice in the state, a consensus should be reached by members on all aspects of the legislation. When there is general agreement and support for the occupational therapy licensure bill, there is a greater likelihood that members will work hard for its enactment.

A task initiated upon completion of the licensure bill is negotiating with other associations such as physical therapists, physi-
cians, and consumer groups to gain support for the bill. This is an important political task in enlisting support for the legislation. It is also an indication that your association intends to include other professions in decisions affecting mutual issues. Health professions may want the opportunity to review the occupational therapy licensure bill. They want to ensure that the bill does not contain legal implications for their own practices. In turn, they may provide your association with the valuable support and assistance needed when the bill is in the legislature.

The actual cost of a licensure campaign is difficult to assess and usually depends on factors such as the political climate in the state, the availability of association members to lobby the legislature, and whether a professional lobbyist should be employed. Other costs to consider in planning a licensure campaign are brochures to be used for public relations, statewide mailings, long-distance telephone calls, and travel expenses. Unless the state association treasury has a special licensure fund, plans to raise money for the licensure campaign should be considered early in the planning stages. Some state associations have effectively financed a licensure campaign by sponsoring continuing education workshops. Other associations have successfully raised money by asking all the therapists in the state to make a special contribution in a fixed amount to the licensure campaign.

Selecting someone to serve as an advocate for the occupational therapy bill is a necessity; however, a professional lobbyist can be the greatest expense of a licensure campaign. Many legislators prefer to talk with an occupational therapist from the association who can provide information concerning the practice of occupational therapy and the licensure bill. However, some associations have employed a professional lobbyist to work for enactment of the bill and to assist the association with its lobbying effort.

After the bill is introduced in the legislature, it is referred to a committee that has jurisdiction over bills that concern licensing and professional regulation. This legislative committee should be the most important focus of the association's lobbying efforts. The committee members study the bill, hold a public hearing, and make amendments to the bill. Association members who have legislators on the committee should contact these representatives to inform them of the bill's importance. Consumer groups and other professional associations should be asked to direct their letters of support to the members of this committee. If the bill meets the approval of a majority of the committee, it is reported out of the committee and to the floor of the House or Senate for a final vote.

It is very important that, by the time the bill reaches this point, every legislator has been contacted and is aware of the importance and purpose of the occupational therapy bill. If both the House and Senate approve the bill, it is sent to the Governor for further action. The association must then direct its lobbying efforts to the governor to gain final approval of the bill.

Individual lobbying of legislators by association members must be a well-organized part of the licensure campaign. Since the success of the licensure bill depends on each therapist's contacting his or her legislator, individual lobbying should be organized on a statewide or district basis. This is accomplished by the licensure committee networking the therapists by state election districts, one of the most important tasks of the licensure campaign. To initiate contact with a legislator, the therapist may write a letter or invite the representative to tour an occupational therapy facility in his or her district. During the visit the therapist may talk more specifically about the purpose of the occupational therapy licensure bill and ask for the legislator's support.

The process to enact an occupational therapy licensure law is both an organizational and a political one. Individual therapist must work within organized groups to complete a series of interrelated tasks within a particular time frame. The political process consists of a group taking action to effect professional changes through the legislative system. State association members who have completed this process report that their efforts were well worth the financial and personal sacrifices necessary for a successful campaign. If you live in a state that has no occupational therapy licensure law, you are urged to consider working with your professional colleagues for the enactment of a law to protect the consumers of your services from the practice of an unqualified occupational therapist.